

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

United States of America,

—v—

Ali Sadr Hashemi Nejad,

Defendant.

USDC SDNY
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18-cr-224 (AJN)

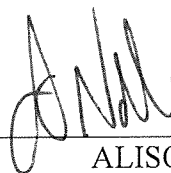
ORDER

ALISON J. NATHAN, District Judge:

Attached to this Order is the final draft of the jury instructions in this case. The parties shall inform the Court by 9:30 p.m. on March 11, 2020 whether any changes were entered incorrectly.

SO ORDERED.

Dated: March 11, 2020
New York, New York



ALISON J. NATHAN
United States District Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

-v.-

ALI SADR HASHEMI NEJAD,

Defendant.

18-cr-224 (AJN)

JURY INSTRUCTIONS

TABLE OF CONTENTS

1	INTRODUCTORY INSTRUCTIONS.....	4
2	Instruction No. 1: Role of the Court	4
3	Instruction No. 2: Role of the Jury	5
4	Instruction No. 3: Contact with Others/Social Media	6
5	Instruction No. 4: Publicity.....	7
6	Instruction No. 5: Statements of Counsel and Court Not Evidence; Jury’s Recollection	
7	Controls	8
8	Instruction No. 6: Improper Considerations	10
9	Instruction No. 7: All Parties Are Equal Before the Law	11
10	Instruction No. 8: Presumption of Innocence and Burden of Proof	12
11	Instruction No. 9: Reasonable Doubt.....	13
12	Instruction No. 10: The Indictment	14
13	CHARGE.....	15
14	Instruction No. 11: Summary of the Indictment	15
15	Instruction No. 12: Count One: Conspiracy to Defraud the United States: General Instructions	
16	17
17	Instruction No. 13: Count One: Elements of the Offense.....	19
18	Instruction No. 14: Count One: Existence of the Conspiracy (Element One).....	20
19	Instruction No. 15: Count One: Object of the Conspiracy (Element One).....	22
20	Instruction No. 16: Count One: Knowing and Willful Participation (Element Two)	23
21	Instruction No. 17: Count One: Overt Act (Element Three)	26
22	Instruction No. 18: Count Two: IEEPA Conspiracy: General Instructions and Statutory	
23	Background	28
24	Instruction No. 19: Count Two: Elements of the Offense	30
25	Instruction No. 20: Count Two: Existence of the Conspiracy (Element One)	31
26	Instruction No. 21: Count Two: Object of the Conspiracy (Element One)	32
27	Instruction No. 22: Count Two: Knowing and Willful Participation (Element Two).....	34
28	Instruction No. 23: Count Two: No Overt Act Requirement	35
29	Instruction No. 24: Count Three: Bank Fraud: General Instructions	36
30	Instruction No. 25: Count Three: Elements – Scheme to Defraud a Financial Institution	38
31	Instruction No. 26: Count Three: Elements – Scheme to Obtain Money or Property Under	
32	Bank’s Control	42
33	Instruction No. 27: Count Three: Aiding and Abetting.....	45
34	Instruction No. 28: Count Four: Conspiracy to Commit Bank Fraud: General Instructions.....	47
35	Instruction No. 29: Count Four: Elements.....	48
36	Instruction No. 30: Count Four: Existence and Object of Conspiracy (Element One)	49
37	Instruction No. 31: Count Four: Knowing and Willful Participation in the Conspiracy (Element	
38	Two)	50
39	Instruction No. 32: Count Five: Money Laundering: General Instructions.....	51
40	Instruction No. 33: Count Five: Elements of the Offense	52
41	Instruction No. 34: Count Five: Transportation of a Monetary Instrument or Funds to the United	
42	States (Element One).....	53

1	Instruction No. 35: Count Five: Intent to Promote Specified Unlawful Activity (Element Two)	
2	54
3	Instruction No. 36: Count Five: Aiding and Abetting	55
4	Instruction No. 37: Count Six: Conspiracy to Commit Money Laundering: General Instructions	
5	56
6	Instruction No. 38: Count Six: Elements	57
7	Instruction No. 39: Count Six: Existence and Object of Conspiracy (Element One).....	58
8	Instruction No. 40: Count Six: Knowing and Willful Participation in the Conspiracy (Element	
9	Two)	59
10	OTHER INSTRUCTIONS	60
11	Instruction No. 41: Venue.....	60
12	Instruction No. 42: Theory of the Defense	61
13	Instruction No. 43: Variance in Dates	63
14	GENERAL INSTRUCTIONS.....	64
15	Instruction No. 44: Direct and Circumstantial Evidence.....	64
16	Instruction No. 45: Inferences	66
17	Instruction No. 46: Number of Witnesses and Uncontradicted Testimony	68
18	Instruction No. 47: Credibility of Witnesses	69
19	Instruction No. 48: Credibility of Witnesses: Impeachment by Prior Inconsistent Statement ..	71
20	Instruction No. 49: Charts and Summaries – Not Admitted As Evidence	72
21	Instruction No. 50: Charts and Summaries – Admitted As Evidence	73
22	Instruction No. 51: Law Enforcement Witnesses	74
23	Instruction No. 52: Stipulations	75
24	Instruction No. 53: Preparation of Witnesses	76
25	Instruction No. 54: Persons Not on Trial.....	77
26	Instruction No. 55: Jury To Consider Only This Defendant	78
27	Instruction No. 56: Evidence Obtained from Searches	79
28	Instruction No. 57: Translations	80
29	Instruction No. 58: Interpreters.....	81
30	Instruction No. 59: Redaction of Evidentiary Items	82
31	Instruction No. 60: Punishment	83
32	Instruction No. 61: Right to Hear Testimony; Election of Foreperson; Communications with the	
33	Court; Juror Note-Taking	84
34	CONCLUDING REMARKS	86

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Instruction No. 1: Role of the Court

You have now heard all of the evidence in the case and will soon hear final arguments of the lawyers for the parties. It is my duty at this point to instruct you as to the law. It is your duty to accept these instructions of law and apply them to the facts as you determine them.

On these legal matters, you must take the law as I give it to you. Regardless of any opinion that you may have as to what the law may be—or ought to be—it would violate your sworn duty to base a verdict upon any other view of the law than that which I give you. If an attorney or anyone else at trial has stated a legal principle different from any that I state to you in my instructions, it is my instructions that you must follow.

You should not single out any instruction as alone stating the law, but you should consider my instructions as a whole when you retire to deliberate in the jury room. You may take a copy of these instructions with you into the jury room.

1 Instruction No. 3: Contact with Others/Social Media

2 During your deliberations, you must not communicate with or provide any information to
3 anyone by any means about this case. You may not use any electronic devices or media, such as a
4 telephone, cell phone, smart phone, iPhone, Blackberry or computer; the Internet, or any internet
5 service, or any text or instant messaging service; or any internet chat room, blog, or website, such
6 as Facebook, My Space, LinkedIn, YouTube, Twitter, Instagram, or Snapchat, to communicate to
7 anyone any information about this case or to conduct any research about this case until I accept
8 your verdict. In other words, you cannot talk to anyone on the phone or in person, correspond
9 with anyone, or electronically communicate with anyone about this case. You can only discuss
10 the case in the jury room with your fellow jurors during deliberations.

11 Along the same lines, you should not try to access any information about the case or do
12 research on any issue that arose during the trial from any outside source, including dictionaries,
13 reference books, or anything on the Internet. In our judicial system, it is important that you are
14 not influenced by anything or anyone outside of this courtroom. Your sworn duty is to decide this
15 case solely and wholly on the evidence that was presented to you in this courtroom.

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2 Your verdict must be based solely on the evidence presented in this courtroom in
3 accordance with my instructions. You must completely disregard any report that you have
4 the press, seen on television, or heard on the radio. Indeed, it would be unfair to consider
5 reports, since they are not evidence and the parties have no opportunity of contradicting their
6 accuracy or otherwise explaining them away. In short, it would be a violation of your oath as
7 jurors to allow yourselves to be influenced in any manner by such publicity.

1 Instruction No. 5: Statements of Counsel and Court Not Evidence;
2 Jury's Recollection Controls

3 As I have said, you must determine the facts by relying upon your own recollection of the
4 evidence. This case is not to be decided on the rhetoric of either the attorneys for the Government
5 or the attorneys for the defendant. The lawyers' arguments are intended to convince you to draw
6 certain conclusions from the evidence or lack of evidence. Those arguments are important. You
7 should weigh and evaluate them carefully. But you must not confuse them with the evidence. If
8 your recollection of the evidence differs from the statements of the lawyers, follow your
9 recollection.

10 You should draw no inference or conclusion for or against any party by reason of lawyers
11 making objections or my rulings on such objections. Counsel have not only the right but the duty
12 to make legal objections that they think are appropriate. You should not be swayed against the
13 Government or the defendant simply because counsel for either side has chosen to make an
14 objection. Similarly, statements made by counsel when arguing the admissibility of evidence are
15 not to be considered as evidence.

16 If I comment on the evidence during my instructions, do not accept my statements in place
17 of your recollection. Again, it is your recollection that governs.

18 Do not concern yourself with what was said at side bar conferences or during my
19 discussions with counsel. Those discussions related to rulings of law, which are my duty, and not
20 to matters of fact, which are your duty to determine.

21 At times I may have admonished a witness or directed a witness to be responsive to
22 questions, to keep his or her voice up, or to repeat an answer. I have also instructed the lawyers at
23 times to keep their voices up and speak into the microphones. My instructions were intended only

1 to clarify the presentation of evidence. You should draw no inference or conclusion of any kind,
2 favorable or unfavorable, with respect to any witness or party in the case, by reason of any
3 comment, question, or instruction of mine. Nor should you infer that I have any views as to the
4 credibility of any witness, as to the weight of the evidence, or as to how you should decide any
5 issue that is before you. That is entirely your role.

1 Instruction No. 6: Improper Considerations

2 Your verdict must be based solely upon the evidence developed at trial or the lack of
3 evidence. It would be improper for you to consider any personal feelings you have about Mr.
4 Sadr's race, ethnicity, religion, national origin, sex, age, or other similar factor. Similarly, it
5 would be improper for you to consider any personal feelings you may have about the race,
6 ethnicity, religion, national origin, sex, age, or any other similar factor of any other witness or
7 anyone else involved in this case. It would be equally improper for you to allow any feelings you
8 might have about the nature of the crime charged to interfere with your decision-making process.
9 Mr. Sadr is entitled to a trial free from prejudice and our judicial system cannot work unless you
10 reach your verdict through a fair and impartial consideration of the evidence.

1 Instruction No. 7: All Parties Are Equal Before the Law

2 You are to perform the duty of finding the facts without bias or prejudice as to any party.

3 You are to perform your final duty in an attitude of complete fairness and impartiality.

4 The fact that the prosecution is brought in the name of the United States of America
5 entitles the Government to no greater consideration than that given to any other party to this
6 litigation. By the same token, the Government is entitled to no less consideration. All parties,
7 whether Government or individuals, stand as equals at the bar of justice.

1 Instruction No. 8: Presumption of Innocence and Burden of Proof

2 Mr. Sadr pleaded not guilty to the charges against him. As a result of a plea of not guilty,
3 the burden is on the Government to prove Mr. Sadr's guilt beyond a reasonable doubt as to each
4 charge. This burden never shifts to Mr. Sadr for the simple reason that the law never imposes
5 upon a defendant in a criminal case the burden or duty of testifying, or calling any witness, or
6 locating or producing any evidence.

7 Even if Mr. Sadr has presented evidence in his defense, it is not his burden to prove
8 himself innocent. It is always the Government's burden to prove each of the elements of the
9 crimes charged beyond a reasonable doubt.

10 Furthermore, the law presumes Mr. Sadr to be innocent of the charges against him. In
11 other words, Mr. Sadr starts with a clean slate. The presumption of innocence stays with Mr. Sadr
12 all throughout the trial and remains as you go into the jury room to begin your deliberations. The
13 presumption remains unless and until you are convinced that the Government has proven Mr.
14 Sadr's guilt beyond a reasonable doubt as to each charge.

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Reasonable doubt is a doubt that appeals to your reason, your judgment, your experience, and your common sense. If, after a fair and impartial consideration of all the evidence, you can candidly and honestly say that you do have an abiding belief of Mr. Sadr's guilt as to any crime charged in this case, such a belief as a prudent person would be willing to act upon in important matters in the personal affairs of his or her own life, then you have no reasonable doubt, and under such circumstances it is your duty to convict Mr. Sadr of the particular crime in question.

1 Instruction No. 10: The Indictment

2 The defendant, Mr. Sadr, has been formally charged in what is called an “Indictment.” As
3 I instructed you at the outset of this trial, the Indictment is simply a charge or accusation. It is not
4 evidence. Mr. Sadr begins trial with an absolutely clean slate and without any evidence against
5 him. You must give no weight to the fact that an Indictment has been returned against Mr. Sadr.
6 What matters is the evidence that has been presented at the trial or the lack of evidence.

7 I will not read the entire Indictment to you at this time. Rather, I will summarize the
8 charges in the Indictment and then explain in detail the elements of each offense.

1 **CHARGE**

2 Instruction No. 11: Summary of the Indictment

3 Mr. Sadr, whose full name is Ali Sadr Hashemi Nejad, has been formally charged in an
4 Indictment containing six counts, or charges. In your deliberations and in reaching your verdict,
5 you must consider each count separately.

6 Count One charges that, from at least in or about 2006, up to and including in or about
7 May 2014, Mr. Sadr agreed with others to defraud the United States by impairing, impeding, and
8 obstructing the lawful and legitimate governmental functions and operations of the Office of
9 Foreign Assets Control at the U.S. Department of the Treasury.

10 Count Two charges that, from at least in or about 2006, up to and including in or about
11 May 2014, Mr. Sadr agreed with others to violate and cause a violation of licenses, orders,
12 regulations, and prohibitions pertaining to the Islamic Republic of Iran issued under the
13 International Emergency Economic Powers Act (“IEEPA”).

14 Count Three charges that, from at least in or about 2006, up to and including in or about
15 May 2014, Mr. Sadr executed and attempted to execute a scheme to defraud a federally-insured
16 financial institution.

17 Count Four charges that, from at least in or about 2006, up to and including in or about
18 May 2014, Mr. Sadr agreed with others to execute a scheme to defraud a federally-insured
19 financial institution.

20 Count Five charges that, from at least in or about 2006, up to and including in or about
21 May 2014, Mr. Sadr participated in money laundering by engaging in certain financial
22 transactions with the intent to promote the carrying on of two specified unlawful activities:

1 willfully violating the International Emergency Economic Powers Act as charged in Count Two,
2 and knowingly committing bank fraud as charged in Count Three.

3 Count Six charges that, from at least in or about 2006, up to and including in or about May
4 2014, Mr. Sadr participated in a money laundering conspiracy by agreeing with others to engage
5 in certain financial transactions in order to promote the carrying on of the same specified unlawful
6 activities charged in Count Five (willfully violating the International Emergency Economic
7 Powers Act, and committing bank fraud).

8 Mr. Sadr denies that he is guilty of these six charges. Mr. Sadr is not charged with
9 committing any crime other than the six offenses alleged in the Indictment. You are here only to
10 determine whether the Government has proven Mr. Sadr guilty beyond a reasonable doubt of the
11 six specific charges in the Indictment.

1 Instruction No. 12: Count One: Conspiracy to Defraud the United States: General Instructions

2 I will now instruct you with respect to Count One of the Indictment. In Count One,
3 Mr. Sadr is charged with conspiracy to defraud the United States, by impairing, impeding and
4 obstructing the lawful and legitimate functions and operations of the Office of Foreign Assets
5 Control of the U.S. Department of the Treasury, in violation of Title 18, Section 371, of the
6 United States Code. In this trial the Office of Foreign Assets Control has been referred to as
7 “OFAC.”

8 Specifically, Count One charges:

9 From at least in or about 2006, up to and including at least in or about
10 May 2014, in the Southern District of New York, Turkey, Switzerland, Iran,
11 and elsewhere, ALI SADR HASHEMI NEJAD, the defendant, and others
12 known and unknown, knowingly and willfully did combine, conspire,
13 confederate, and agree together and with each other to defraud the United
14 States and an agency thereof, to wit, to impair, impede, and obstruct the lawful
15 and legitimate governmental functions and operations of OFAC in the
16 enforcement of economic sanctions laws and regulations administered by that
17 agency.

18 Title 18, Section 371 of the United States Code provides in relevant part:

19 If two or more persons conspire . . . to defraud the United States, or any agency
20 thereof in any manner or for any purpose, and one or more of such persons do
21 any act to effect the object of the conspiracy, each shall be [guilty of a crime].

22 A conspiracy to commit a crime is an entirely separate and different offense from the
23 crime that is the object of the conspiracy. The essence of the crime of conspiracy is an
24 agreement or understanding to violate the law. Thus, if a conspiracy exists, even if it should fail
25 in its purpose, it is still punishable as a crime.

1 The charge of conspiracy to defraud the Government does not mean that one of the illegal
2 objects must be to cause the Government to suffer a loss of money or property as a consequence
3 of the conspiracy. It would also be a conspiracy to defraud if one of the objects was to obstruct,
4 interfere, impair, impede, or defeat the legitimate functioning of a Government agency through
5 fraudulent or dishonest means, as I will define these terms.

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First, that the conspiracy charged in Count One existed. In other words, that there was an agreement or understanding between two or more people to impair, impede, obstruct, or defeat the lawful and legitimate governmental functions and operations of the Office of Foreign Assets Control of the U.S. Department of the Treasury through fraudulent or dishonest means. You must also determine that the agreement continued to operate after March 18, 2013.

Third, that one of the conspirators knowingly committed at least one overt act in furtherance of the conspiracy after March 18, 2013.

1 Instruction No. 14: Count One: Existence of the Conspiracy (Element One)

2 The first element that the Government must prove beyond a reasonable doubt is that two
3 or more persons entered the unlawful agreement charged in Count One of the Indictment—that
4 is, that two or more persons agreed to impair, impede, and obstruct the lawful and legitimate
5 governmental functions and operations of OFAC through fraudulent and dishonest means.

6 A conspiracy is an agreement or understanding between two or more persons to
7 accomplish some unlawful purpose. To establish the existence of a conspiracy, however, the
8 Government is not required to show that two or more people sat around a table and entered into a
9 formal contract. It is sufficient if two or more persons, in any manner, came to a common
10 understanding to violate the law. Express language or specific words are not required to indicate
11 agreement to or membership in a conspiracy. As I already told you, it is not necessary that a
12 conspiracy actually succeed in its purpose for you to conclude that it existed.

13 Nevertheless, in determining whether two or more individuals have agreed to commit a
14 crime, you may look at all of their conduct—including any acts done to carry out an apparent
15 criminal purpose—and determine whether that conduct reflects an intent to carry out a common
16 criminal purpose. The old saying “actions speak louder than words” applies here.

17 If, upon consideration of all the evidence, direct and circumstantial, you find that the
18 Government has proven beyond a reasonable doubt that there was a meeting of the minds or
19 agreement between two or more persons to commit the unlawful objective charged in Count
20 One, then proof of the existence of a conspiracy is established. Mere discussions about crimes or
21 mere knowledge of crimes without an agreement to commit them is not a conspiracy. Further, an

1 agreement to achieve a lawful goal is not the same as a criminal conspiracy—two or more
2 individuals must have agreed to commit the crime of obstructing the lawful and legitimate
3 governmental functions and operations of OFAC in the enforcement of the Iranian trade
4 sanctions laws and regulations.

5 Finally, the agreement to act together dishonestly for the charged unlawful purpose must
6 have continued in operation after March 18, 2013. That date is relevant because of the statute of
7 limitations, which provides that you cannot convict on Count One unless the offense was
8 committed within five years of the Indictment, which was returned March 19, 2018. Thus, for
9 you to find the existence of the conspiracy charged in Count One, you must find the Government
10 has proven beyond a reasonable doubt that the agreement to act for the unlawful purpose charged
11 in Count One continued after March 18, 2013.

12 I will now instruct you further on the charged object of obstructing the lawful and
13 legitimate functions of OFAC.

1 Instruction No. 15: Count One: Object of the Conspiracy (Element One)

2 The object of a conspiracy is the illegal goal the co-conspirators agree or hope to achieve.
3 Count One charges that the goal of the conspiracy was to impair, impede, or obstruct the lawful
4 and legitimate governmental functions and operations of OFAC in the enforcement of the Iranian
5 trade sanctions laws and regulations, through fraudulent and dishonest means.

6 In order to find a conspiracy to “impair, impede, or obstruct” a legitimate governmental
7 function, you must find beyond a reasonable doubt that the object of the conspiracy was to make
8 it more difficult for a part of the United States Government to carry out its lawful and legitimate
9 functions and that the scheme depended on fraudulent and dishonest means. Actual contact
10 between Mr. Sadr and an official of the U.S. Government is not an element of the crime, nor is it
11 necessary for you to find that the Government was subjected to any loss of money or property as
12 a result of the conspiracy. It also is not necessary for you to find that the impairment violated
13 any separate law. All that is required is that the object of the conspiracy was to interfere with or
14 obstruct one of the United States’ lawful governmental functions by deceit, craft or trickery, or
15 by means that are dishonest.

16 As I will explain to you in more detail when we come to Count Two, the United States
17 has imposed economic sanctions, meaning legal restrictions, on trade and transactions involving
18 the Islamic Republic of Iran. Pursuant to law, the Office of Foreign Assets Control of the U.S.
19 Department of the Treasury, often referred to by its initials, “OFAC,” administers and enforces
20 these laws.

1 Instruction No. 16: Count One: Knowing and Willful Participation (Element Two)

2 The Government must also prove beyond a reasonable doubt that the defendant
3 knowingly and willfully entered into the conspiracy, that is, that the defendant agreed to take part
4 in the conspiracy with knowledge of its unlawful purpose and in furtherance of its unlawful
5 objective.

6 To act knowingly means to act intentionally and voluntarily, and not because of
7 ignorance, mistake, accident, or carelessness. To act willfully means to act with knowledge that
8 one's conduct is unlawful and with the intent to do something the law forbids, that is to say with
9 the bad purpose to disobey or disregard the law. You must determine: Did Mr. Sadr join the
10 conspiracy knowing of its unlawful aim and purpose and with the specific intent of furthering
11 that unlawful purpose?

12 Thus, if a defendant believed in good faith that he was acting properly, even if he was
13 mistaken in that belief, this element cannot be established because a defendant who acted in good
14 faith cannot be found to have acted knowingly, willfully, and with the unlawful intent required in
15 this element. The burden of establishing knowledge and lack of good faith rests upon the
16 Government. Mr. Sadr is under no burden to prove his good faith; rather, the Government must
17 prove Mr. Sadr's knowing and willful participation beyond a reasonable doubt.

18 Now, knowledge is a matter of inference from the proven facts. Science has not yet
19 devised a manner of looking into a person's mind and knowing what that person is thinking.
20 However, you do have before you the evidence of certain acts and conversations alleged to have
21 taken place involving the defendant or in his presence. You may consider this evidence in

1 determining whether the Government has proven beyond a reasonable doubt the defendant's
2 knowledge of the unlawful purposes of the conspiracy.

3 It is not necessary for the Government to show that a defendant was fully informed as to
4 all the details of the conspiracy in order for you to infer knowledge on his part. To have guilty
5 knowledge, a defendant need not have known the full extent of the conspiracy or all of the
6 activities of all of its participants. It is not even necessary for a defendant to know every other
7 member of the conspiracy.

8 Nor is it necessary that the defendant received any monetary benefit from his
9 participation in the conspiracy, or had a financial stake in the outcome. However, although proof
10 of a financial interest in the outcome of a scheme is not essential or determinative, if you find
11 that a defendant had a financial or other interest, that is a factor you may properly consider in
12 determining whether the defendant was a member of the conspiracy.

13 The duration and extent of the defendant's participation has no bearing on the issue of his
14 guilt. He need not have joined the conspiracy at the outset. A defendant may have joined it for
15 any purpose at any time in its progress, and he will be held responsible for all that was done
16 before he joined and all that was done during the conspiracy's existence while he was a member.

17 Each member of a conspiracy may perform separate and distinct acts and may perform
18 them at different times. Some conspirators may play major roles, while others play minor roles
19 in the scheme. An equal role or an important role is not what the law requires. In fact, even a
20 single act can be sufficient to make a defendant a participant in an illegal conspiracy.

1 However, a person's mere association with a member of the conspiracy does not make
2 that person a member of the conspiracy, even when that association is coupled with knowledge
3 that a conspiracy is taking place. Mere presence at the scene of a crime, even coupled with
4 knowledge that a crime is taking place, is not sufficient to support a conviction. In other words,
5 knowledge without agreement and participation is not sufficient. What is necessary is that a
6 defendant participate in the conspiracy with knowledge of its unlawful purposes, and with an
7 intent to aid in the accomplishment of its unlawful objectives.

8 In sum, the defendant, with an understanding of the unlawful nature of the conspiracy,
9 may have intentionally engaged, advised or assisted in the conspiracy for the purpose of
10 furthering an illegal undertaking. The defendant thereby becomes a knowing and willing
11 participant in the unlawful agreement—that is to say, he becomes a conspirator.

12 A conspiracy once formed is presumed to continue until its objective is accomplished or
13 until there is some affirmative act of termination by its members. So too, once a person is found
14 to be a participant in the conspiracy, that person is presumed to continue being a participant in
15 the venture until the venture is terminated, unless it is shown by some affirmative proof that the
16 person withdrew and dissociated himself from it.

1 Instruction No. 17: Count One: Overt Act (Element Three)

2 The third element that the Government must prove beyond a reasonable doubt is that at
3 least one overt act was committed in furtherance of the conspiracy by at least one of the co-
4 conspirators. You need not find that Mr. Sadr committed the overt act. It is sufficient for the
5 Government to show that any of the co-conspirators committed an act in furtherance of the
6 conspiracy.

7 The Indictment charges that a number of particular overt acts were committed in
8 furtherance of the conspiracy. It is not necessary for the Government to prove that any of the
9 specified overt acts charged in the Indictment were committed. Rather, the Government can
10 prove any overt act, even one that is not listed in the Indictment, provided that the overt act is
11 committed by one of the conspirators and is done to further the object of the conspiracy. It is
12 sufficient if you find beyond a reasonable doubt that any one overt act occurred while the
13 conspiracy was still in existence.

14 You should bear in mind that the overt act, standing alone, may be an innocent, lawful
15 act. An apparently innocent act can shed its harmless character if it is a step in carrying out,
16 promoting, aiding, or assisting a conspiratorial scheme.

17 It is not necessary for you to reach unanimous agreement on whether a particular overt
18 act was committed in furtherance of the conspiracy; you just need to all agree that at least one
19 overt act was so committed.

20 As I explained before, in order for you to find the overt act requirement satisfied, you
21 must find beyond a reasonable doubt that the overt act in furtherance of the conspiracy was

1 committed after March 18, 2013. Again, that is because under the relevant statute of limitations,
2 you cannot convict Mr. Sadr unless the conspiracy offense was committed within five years of
3 when the Indictment was returned on March 19, 2018. That means that, in order for you to
4 convict, you must be satisfied that the Government has proven beyond a reasonable doubt that
5 the overt act in furtherance of the conspiracy charged in Count One was committed after March
6 18, 2013.

Instruction No. 18: Count Two: IIEPA Conspiracy: General Instructions and Statutory Background

Count Two of the Indictment charges Mr. Sadr with participating in a conspiracy, from at least in or about 2006 up to and including in or about May 2014, to violate regulations or prohibitions issued under the International Emergency Economic Powers Act, otherwise known as the IEEPA.

Specifically, Count Two charges:

From at least in or about 2006, up to and including at least in or about May 2014, in the Southern District of New York, Turkey, Switzerland, Iran, and elsewhere, ALI SADR HASHEMI NEJAD, the defendant, and others known and unknown, knowingly and willfully did combine, conspire, confederate, and agree together and with each other to violate, and to cause a violation of, licenses, orders, regulations, and prohibitions issued under the International Emergency Economic Powers Act, Title 50, United States Code, Sections 1701 to 1707, and Part 560 of Title 31, Code of Federal Regulations.

It was part and an object of the conspiracy that ALI SADR HASHEMI NEJAD, the defendant, and others known and unknown, would and did export, reexport, sell, and supply, and cause to be exported, reexported, sold, and supplied, directly and indirectly, from the United States, services, to wit, international financial transactions, to Iran and to the Government of Iran, without first obtaining the required approval of OFAC, in violation of Title 50, United States Code, Sections 1701 to 1707, and Title 31, Code of Federal Regulations, Section 560.204.

It was further a part and an object of the conspiracy that ALI SADR HASHEMI NEJAD, the defendant, and others known and unknown, would and did engage in a transaction that evaded and avoided, had the purpose of evading and avoiding, caused a violation of, and attempted to violate one or more of the prohibitions set forth in Title 31, Code of Federal Regulations, Part 560, in violation of Title 50, United States Code, Sections 1701 to 1707, and Title 31, Code of Federal Regulations, Section 560.203.

Under authority contained in IEEPA, in Title 50, Sections 1702 and 1703 of the United States Code, the United States has adopted certain restrictions on transactions with or involving

1 Iran. These restrictions are referred to as economic sanctions or trade sanctions, and are
2 contained in the “Iranian Transactions and Sanctions Regulations” in Title 31, Part 560 of the
3 Code of Federal Regulations. Among other things, these sanctions prohibit causing the export of
4 a service directly or indirectly to Iran or the Government of Iran from the United States.

5 Title 50, Section 1705 of the United States Code provides in relevant part:

6 **(a) Unlawful acts**

7 It shall be unlawful for a person to . . . conspire to violate . . . any . . .
8 regulation[] or prohibition issued under [IEEPA].

9

10 **(c) Criminal Penalty**

11 A person who willfully . . . conspires to commit . . . an unlawful act
12 described in subsection (a) shall, upon conviction, be [guilty of a crime].

1 Instruction No. 19: Count Two: Elements of the Offense

2 Like Count One, Count Two charges a conspiracy. Therefore, the elements of Count
3 Two are similar to the elements of Count One, except that an overt act is not required. To
4 sustain its burden of proof with respect to the conspiracy charge in Count Two, the Government
5 must prove beyond a reasonable doubt each of the following elements:

6 First, the Government must prove that the conspiracy charged in Count Two existed.
7 That is, that there was an agreement or understanding among at least two people to violate
8 regulations § 560.204 and § 560.203 of the Iranian Transactions and Sanctions Regulations,
9 which were issued under IEEPA, and that the conspiracy continued to exist after March 18,
10 2013.

11 Second, the Government must prove that Mr. Sadr knowingly and willfully became a
12 member of that conspiracy, with knowledge of its unlawful objective.

13 Each of these elements must be satisfied beyond a reasonable doubt.

1 Instruction No. 20: Count Two: Existence of the Conspiracy (Element One)

2 The first element that the Government must prove beyond a reasonable doubt is that two
3 or more persons entered the unlawful agreement charged in Count Two of the Indictment—that
4 is, an agreement to violate, and to cause a violation of, regulations and prohibitions issued under
5 IEEPA.

6 In Instruction No. 14 on Count One, I instructed you on the principles of law you are to
7 apply to determine whether the Government has proven beyond a reasonable doubt that the
8 conspiracy charged in the relevant count of the Indictment existed—including the requirement
9 that it must have continued to exist after March 18, 2013 (the statute of limitations date).

10 You should apply the principles in that instruction here to determine whether the
11 unlawful agreement charged in Count Two, described above, existed after March 18, 2013.

1 Instruction No. 21: Count Two: Object of the Conspiracy (Element One)

2 In order to find Mr. Sadr guilty of the conspiracy charged in Count Two, you must find
3 that the Government has proved beyond a reasonable doubt at least one of the two objects of the
4 conspiracy charged in Count Two.

5 The first charged object was to export, reexport, sell, and supply, and cause to be
6 exported, from the United States, services—that is, financial transactions—to Iran or to the
7 Government of Iran, in violation of Title 31, Code of Federal Regulations, Section 560.204. The
8 second charged object was to engage in a transaction that evaded and avoided, had the purpose
9 of evading and avoiding, caused a violation of, and attempted to violate Section 560.204
10 (described above), in violation of Title 31, Code of Federal Regulations, Section 560.203.

11 I will now instruct you on regulations and legal principles relevant to determining
12 violations of Sections 560.204 and 560.203. I remind you that the crime of conspiracy is distinct
13 from the underlying substantive crime that conspirators agree to commit. The essence of
14 conspiracy is an agreement to violate the law—to commit a crime. At the same time, an
15 agreement to engage in lawful conduct is not a criminal conspiracy. Accordingly, you need not
16 find that a substantive violation of IEEPA actually occurred, only that the defendant knowingly
17 and willfully agreed with others to engage in conduct intended to violate IEEPA.

18 Section 560.204 generally prohibits “the exportation, reexportation, sale, or supply,
19 directly or indirectly, from the United States, or by a United States person, wherever located, of
20 any goods, technology, or services to Iran or the Government of Iran.” Section 560.203
21 generally prohibits any transaction that “evades or avoids, [or] has the purpose of evading or

1 avoiding” a prohibition in the Iranian Transactions and Sanctions Regulations—in this case the
2 prohibition on direct or indirect exportation to Iran contained in Section 560.204. Under Section
3 560.203, to establish this prong, the Government must prove beyond a reasonable doubt that the
4 conspirators agreed to engage in transactions for the purpose of evading or avoiding the
5 prohibition on direct or indirect exportation to Iran in Section 560.204.

6 A violation of either of these regulations also requires proof that at the time of the
7 transactions at issue, the transactions were not licensed or otherwise authorized by OFAC.

8 I am now going to define some of the technical terms used in the regulations that I
9 have just instructed you about. The services that the Indictment charges were exported
10 from the United States are the processing services provided by U.S. correspondent banks
11 in processing wire transfers of funds between non-Iranian foreign banks. Such
12 processing services are “services” under Section 560.204. The supply of services
13 “directly or indirectly to Iran” includes the supply of services performed on behalf of a
14 person, entity, or business in Iran, or where the benefit of such services is otherwise
15 received in Iran.

16 The “Government of Iran” means the state and the Government of Iran, as well as any
17 political subdivision, agency, or instrumentality of the Government of Iran, including the Central
18 Bank of Iran. The Government of Iran also includes any entity or business owned or controlled,
19 directly or indirectly, by the Government of Iran and any person to the extent that the person acts
20 or purports to act, directly or indirectly, for or on behalf of the Government of Iran, and any
21 other person or entity that OFAC has determined meets any of these criteria.

1 Instruction No. 22: Count Two: Knowing and Willful Participation (Element Two)

2 The second element the Government must prove beyond a reasonable doubt is that
3 Mr. Sadr knowingly and willfully entered into the conspiracy, that is, that he agreed to take part
4 in the conspiracy with knowledge of its unlawful purpose and in furtherance of its unlawful
5 objective.

6 In Instruction No. 16 in Count One, I instructed you on the principles to apply to
7 determine whether the defendant knowingly and willfully joined the charged conspiracy. You
8 should apply those principles here, to determine whether the Government has proved beyond a
9 reasonable doubt that Mr. Sadr knowingly and willfully joined the conspiracy charged in Count
10 Two, with knowledge of its illegal objective and intent to further that unlawful purpose.

11 A defendant may not be held liable for a violation of IEEPA if the defendant acted, or
12 chose not to act, in a good-faith belief that he was complying with the licenses, orders,
13 regulations, or prohibitions issued pursuant to IEEPA. In other words, if you find that the
14 defendant acted in good faith, then he may not be convicted of a conspiracy to
15 violate IEEPA.

1 Instruction No. 23: Count Two: No Overt Act Requirement

2 Although Count Two, like Count One of the Indictment, charges Mr. Sadr with
3 participating in a conspiracy, I instruct you that, unlike for Count One, it is not necessary for the
4 Government to prove the commission of any overt act in furtherance of the conspiracy alleged in
5 Count Two.

6 You should not concern yourselves with why an overt act is required for Count One but
7 not Count Two. The difference arises from the different statutes that define the two different
8 offenses. It does not have anything to do with the facts of this case.

1 Instruction No. 24: Count Three: Bank Fraud: General Instructions

2 Count Three of the Indictment charges Mr. Sadr with committing bank fraud.

3 Specifically, Count Three charges:

4 From at least in or about 2006, up to and including at least in or about
5 May 2014, in the Southern District of New York, Turkey, Switzerland, Iran,
6 and elsewhere, ALI SADR HASHEMI NEJAD, the defendant, and others
7 known and unknown, did knowingly execute and attempt to execute a scheme
8 or artifice to defraud a financial institution, the deposits of which were then
9 insured by the Federal Deposit Insurance Corporation (“FDIC”), and to obtain
10 moneys, funds, credits, assets, securities, and other property owned by and
11 under the custody and control of such financial institution, by means of false
12 and fraudulent pretenses, representations, and promises, and aided and abetted
13 the same, to wit, inducing U.S. financial institutions to conduct financial
14 transactions on behalf of and for the benefit of the Government of Iran and
15 Iranian entities and persons using money and property owned by and under the
16 custody and control of such financial institutions, by deceptive means.

17 The bank fraud statute, Title 18, Section 1344 of the United States Code, provides:

18 Whoever knowingly executes, or attempts to execute, a scheme or
19 artifice—

20 (1) to defraud a financial institution; or

21 (2) to obtain any of the moneys, funds, credits, assets, securities, or other
22 property owned by, or under the custody or control of, a financial institution,
23 by means of false or fraudulent pretenses, representations, or promises;

24 shall be [guilty of a crime].

25 The statute thus sets out two different forms of bank fraud: (1) a scheme to defraud a
26 bank, and (2) a scheme to obtain money under the bank’s control by means of false
27 representations. Count Three of the Indictment charges both forms of bank fraud. I will instruct
28 you separately on each one.

1 You may find Mr. Sadr guilty of bank fraud if you find all the elements of one form of
2 bank fraud proven. You do not need to find both forms proven. But to find Mr. Sadr guilty, you
3 must be unanimous as to which theory of bank fraud you find, and you must find every element
4 of that theory proven beyond a reasonable doubt.

1 Instruction No. 25: Count Three: Elements – Scheme to Defraud a Financial Institution

2 In order to prove Mr. Sadr guilty of knowingly executing a scheme to defraud a bank
3 under Section 1344(1), the Government must prove each of the following elements beyond a
4 reasonable doubt:

5 First, that there was a scheme to defraud a bank;

6 Second, that the defendant executed or attempted to execute the scheme knowingly; and

7 Third, that at the time of the execution of the scheme, the bank had its deposits insured by
8 the Federal Deposit Insurance Corporation, or “FDIC.”

9 The first element the Government must prove beyond a reasonable doubt is that there was
10 a scheme to defraud. A “scheme” is simply a plan that is designed to accomplish an objective.
11 A “scheme to defraud” is defined as a pattern or course of conduct concerning a material matter
12 designed to deceive a federally-insured bank into releasing property with the knowledge that
13 course of conduct would likely harm the bank’s property interest.

14 Because the Government need only show that a scheme to defraud existed, not that it
15 succeeded, it is not necessary for the Government to prove that the banks actually lost money or
16 property as a result of the scheme. For you to find Mr. Sadr guilty, however, the Government
17 must prove that he did more than merely deceive the banks. To carry its burden, the Government
18 must prove that he knew his conduct would likely harm the bank’s property interest.

19 In this regard, a person is not deprived of money or property only when someone directly
20 takes money or property from that person, although that is obviously one way that a person or
21 entity can be so deprived. A person can also be deprived of money or property when that person

1 is provided false or fraudulent information that, if believed, would prevent the person from being
2 able to make informed economic decisions about what to do with his or her money or property.
3 In other words, a person is deprived of money or property when the person is deprived of the
4 right to control that money or property.

5 However, not every non-disclosure or misrepresentation that could affect someone's
6 decision of how to use his or her assets is sufficient to support a bank fraud conviction. The loss
7 of the right to control money or property constitutes deprivation of money or property only when
8 the scheme, if it were to succeed, would likely result in tangible economic harm to the victim,
9 and the defendant knew such tangible economic harm was likely. Thus, to convict Mr. Sadr of
10 bank fraud under a right-to-control theory, the Government must prove Mr. Sadr knew that it
11 was likely that the alleged fraudulent scheme would cause the banks tangible economic harm. If
12 all the Government proves is that under the scheme, it was contemplated that the banks would
13 enter into transactions they would otherwise not have entered into, without proving that the
14 financial institutions would thereby likely have suffered economic harm, then the Government
15 will not have met its burden of proof.

16 The second element the Government must prove beyond a reasonable doubt is that the
17 defendant executed or attempted to execute the scheme knowingly. To act "knowingly" means
18 to act voluntarily and deliberately, rather than mistakenly or inadvertently. In determining
19 whether the defendant acted knowingly, you may also consider whether he believed in good faith
20 that he was acting properly. I have already instructed you about good faith in connection with
21 Count One, and you should rely on that instruction here as well. Furthermore, this element

1 requires that the defendant engaged in, or participated in, the scheme alleged with an
2 understanding of its fraudulent or deceptive character and with an intention to help it succeed. It
3 is not required that the defendant participate in or have knowledge of all the operations of the
4 scheme. The guilt of the defendant is not governed by the extent of his participation. It also is
5 not necessary that the defendant originated the scheme, or that the defendant participated in the
6 alleged scheme from the beginning. A person who comes in at a later point with knowledge of
7 the scheme's general operation, although not necessarily all of its details, and intentionally acts
8 in a way to further the unlawful goals, becomes a member of the scheme and is legally
9 responsible for all that may have been done in the past in furtherance of the criminal objective
10 and all that is done thereafter. Even if the defendant participated in the scheme to a lesser degree
11 than others, he is nevertheless guilty, so long as the defendant became a member of the scheme
12 to defraud with knowledge of its general scope and purpose.

13 The Government must specifically prove that the defendant knew the scheme would
14 likely harm the bank's property interest. The question of whether the defendant knew his course
15 of conduct would likely harm the bank's property interest is a question of fact for you to
16 determine, like any other fact question. This question involves one's state of mind. Direct proof
17 of knowledge is almost never available. It would be a rare case where it could be shown that a
18 person wrote or stated that as of a given time in the past he committed an act with unlawful
19 knowledge. Such direct proof is not required. The ultimate facts of knowledge, though
20 subjective, may be established by a person's outward manifestations, his words, his conduct, his
21 acts and all the surrounding circumstances disclosed by the evidence and the rational or logical

1 inferences that may be drawn therefrom. Circumstantial evidence, if believed, is of no less value
2 than direct evidence. In either case, the essential elements of the crime must be established
3 beyond a reasonable doubt.

4 The third element the Government must prove beyond a reasonable doubt is that the
5 relevant bank was insured by the Federal Deposit Insurance Corporation at the time of the
6 execution of the alleged scheme. It is not necessary for the Government to prove that the
7 defendant knew the identity of a particular bank or that the defendant knew that the bank was
8 insured by the Federal Deposit Insurance Corporation.

1 Instruction No. 26: Count Three: Elements – Scheme to Obtain Money or Property Under Bank’s
2 Control

3 In order to prove Mr. Sadr guilty of knowingly executing a scheme to obtain money or
4 property owned by or under the bank’s custody or control under Section 1344(2), the
5 Government must prove each of the following elements beyond a reasonable doubt:

6 First, that there was a scheme to obtain money or property owned by or under the custody
7 or control of a bank by means of materially false or fraudulent pretenses, representations or
8 promises as charged in the Indictment;

9 Second, that the defendant executed or attempted to execute the scheme knowingly and
10 with the intent to obtain money or property owned by or under the custody or control of the
11 bank; and

12 Third, that at the time of the execution of the scheme, the bank had its deposits insured by
13 the Federal Deposit Insurance Corporation.

14 The first element that the Government must prove beyond a reasonable doubt is that there
15 was a scheme to obtain money or property owned by or under the custody or control of a bank by
16 means of false or fraudulent pretenses, representations or promises as described in the
17 Indictment.

18 I have instructed you on the meaning of “scheme” and you should follow that instruction
19 here. For the scheme to obtain money “by means of” false or fraudulent pretenses,
20 representations or promises, a false statement must be the thing that causes the bank to part with

1 money in its control. If a false statement is not the reason the bank parts with money in its
2 control, this element is not satisfied.

3 A representation is fraudulent if it was falsely made with the intent to deceive. Deceitful
4 statements of half-truth, the concealment of material facts where that concealment makes an
5 affirmative statement misleading, and the expression of an opinion not honestly entertained may
6 constitute false or fraudulent representations under the statute. The deception need not be
7 premised upon spoken or written words alone, however. The arrangement of the words, or the
8 circumstances in which they are used may convey a false and deceptive appearance. If there is
9 intentional deception, the manner in which it is accomplished does not matter.

10 The fraudulent representation must relate to a material fact or matter. A material fact is
11 one you would reasonably expect to be of concern to a reasonable and prudent person in relying
12 upon the representation or statement in making a decision. This means that if you find a
13 particular statement of fact to have been false, you must also determine whether that statement
14 was one that a reasonable person would have considered important in making his or her decision.
15 It does not matter whether the bank actually relied on the misrepresentation; however, the
16 misrepresentation had to be capable of influencing the bank. The same principle applies to
17 fraudulent half-truths or the concealment of material facts where that concealment makes an
18 affirmative statement misleading.

19 The second element the Government must prove beyond a reasonable doubt is that the
20 defendant executed or attempted to execute the scheme knowingly and with the intent to obtain
21 money or funds owned by or under the custody or control of the bank.

1 I instructed you on “knowingly,” good faith, and that the ultimate facts of knowledge and
2 criminal intent, though subjective, may be established by circumstantial evidence, in the previous
3 instruction. You should follow those instructions here.

4 The third element the Government must prove beyond a reasonable doubt is that at the
5 time of the execution of the scheme, the bank had its deposits insured by the Federal Deposit
6 Insurance Corporation. I instructed you on the requirement of knowledge that the bank was
7 insured by the FDIC in the previous instruction, and you should follow that instruction here.

1 Instruction No. 27: Count Three: Aiding and Abetting

2 In connection with the substantive crime of bank fraud charged in Count Three, Mr. Sadr
3 is also charged with aiding and abetting the commission of that crime. Mr. Sadr can be
4 convicted *either* if he committed the crime himself, *or* if another person committed the crime and
5 Mr. Sadr aided and abetted that person to commit that crime.

6 A person who aids and abets another to commit an offense is just as guilty of that offense
7 as if he had committed it himself. Therefore, if you find that the Government has proven beyond
8 a reasonable doubt that another person actually committed the bank fraud offense charged in
9 Count Three, and that Mr. Sadr aided and abetted that person in the commission of the offense,
10 then you may find Mr. Sadr guilty of that crime.

11 In order to convict on an aiding and abetting theory, you must first find that another
12 person has committed the crime charged in Count Three. Obviously, no one can be convicted of
13 aiding and abetting the criminal acts of another if no crime was committed by the other person.
14 But if you do find that someone committed the crime of bank fraud charged in Count Three, then
15 you must consider whether Mr. Sadr aided or abetted the commission of the crime.

16 In order to aid and abet another in committing a crime, it is necessary that the
17 Government prove that Mr. Sadr knowingly and willfully associated himself in some way with
18 the crime, and that he knowingly and willfully sought by some act to help make the crime
19 succeed. To establish that the defendant knowingly and willfully associated himself with the
20 crime, the Government must establish that the defendant knew of the scheme to defraud the bank

1 and intended to defraud the bank, or knew of the scheme to obtain money from the bank's
2 custody and intended to do so by means of false statements.

3 Participation in a crime is willful if action is taken voluntarily and intentionally, or, in the
4 case of a failure to act, with the specific intent to fail to do something the law requires to be
5 done—that is to say, with a bad purpose either to disobey or to disregard the law.

6 The mere presence of the defendant where a crime is being committed, even coupled with
7 knowledge by the defendant that a crime is being committed, or merely associating with others
8 who were committing a crime is not sufficient to establish aiding and abetting. One who has no
9 knowledge that a crime is being committed or is about to be committed but inadvertently does
10 something that aids in the commission of that crime is not an aider and abettor. An aider and
11 abettor must know that the crime is being committed and act in a way that is intended to bring
12 about the success of the criminal venture.

13 In sum, to determine whether Mr. Sadr aided and abetted bank fraud as charged in Count
14 Three, the Government must prove that Mr. Sadr: (1) participated in either the scheme to defraud
15 the bank or the scheme to obtain property from the bank's custody through false representations
16 as something he wished to bring about; (2) associated himself with that crime knowingly,
17 deliberately, and willfully; and (3) intended by his actions to make that crime succeed. If the
18 Government has proved these three things beyond a reasonable doubt, then the defendant is an
19 aider and abettor and guilty of the crime charged. If the Government's proof has failed to prove
20 these three things, then Mr. Sadr is not an aider and abettor and you must find him not guilty of
21 the crime charged in Count Three.

1 Instruction No. 28: Count Four: Conspiracy to Commit Bank Fraud: General Instructions

2 Count Four charges Mr. Sadr with conspiracy to commit the bank fraud offenses charged
3 in Count Three.

4 Specifically, Count Four alleges that:

5 From at least in or about 2006, up to and including at least in or about
6 May 2014, in the Southern District of New York, Turkey, Switzerland, Iran,
7 and elsewhere, ALI SADR HASHEMI NEJAD, the defendant, and others
8 known and unknown, knowingly and willfully did combine, conspire,
9 confederate, and agree together and with each other to commit bank fraud, in
10 violation of Title 18, United States Code, Section 1344.

11 It was a part and an object of the conspiracy that ALI SADR HASHEMI
12 NEJAD, the defendant, and others known and unknown, would and did
13 knowingly execute and attempt to execute a scheme or artifice to defraud a
14 financial institution, the deposits of which were then insured by the FDIC, and
15 to obtain moneys, funds, credits, assets, securities, and other property owned
16 by and under the custody and control of such a financial institution, by means
17 of false and fraudulent pretenses, representations, and promises, in violation of
18 Title 18, United States Code, Section 1344.

19 Title 18, Section 1344 of the United States Code defines the crime of bank fraud, as I
20 instructed you under Count Three.

21 Title 18, Section 1349 of the United States Code provides:

22 Any person who ... conspires to commit any offense under this chapter
23 [including bank fraud under Section 1344] shall be [guilty of a crime].

1 Instruction No. 29: Count Four: Elements

2 Like Counts One and Two, Count Four charges a conspiracy. Again, the elements of
3 Count Four are similar to the elements of Count One, except that an overt act is not required. To
4 sustain its burden of proof with respect to the conspiracy charge in Count Four, the Government
5 must prove beyond a reasonable doubt each of the following elements:

6 First, the Government must prove that the conspiracy charged in Count Four existed.
7 That is, that there was an agreement or understanding among at least two people to commit bank
8 fraud, as charged in Count Three

9 Second, the Government must prove that Mr. Sadr knowingly and willfully became a
10 member of that conspiracy, with knowledge of its unlawful objective.

11 Each of these elements must be satisfied beyond a reasonable doubt.

1 Instruction No. 30: Count Four: Existence and Object of Conspiracy (Element One)

2 The first element that the Government must prove beyond a reasonable doubt is that two
3 or more persons entered the unlawful agreement charged in Count Four of the Indictment—that
4 is, an agreement to commit bank fraud as charged in Count Three.

5 In Instruction No. 14 on Count One, I instructed you on the principles of law you are to
6 apply to determine whether the Government has proven beyond a reasonable doubt that the
7 conspiracy charged in the relevant count of the Indictment existed.

8 You should apply those principles here to determine whether the unlawful agreement
9 charged in Count Four, described above, existed.

Instruction No. 31: Count Four: Knowing and Willful Participation in the Conspiracy (Element Two)

In order to find Mr. Sadr guilty of the conspiracy charged in Count Four, the second element you must find that the Government has proved beyond a reasonable doubt is that Mr. Sadr knowingly and willfully participated in the conspiracy to commit bank fraud charged in Count Four, knowing of and intending to further its unlawful purpose. I have already explained the elements of bank fraud, including the required knowledge, intent, and good faith when discussing Count Three. You should rely on those instructions in determining whether Mr. Sadr participated in the bank fraud conspiracy charged in Count Four with the required knowledge and intent.

1 Instruction No. 32: Count Five: Money Laundering: General Instructions

2 Count Five charges Mr. Sadr with international money laundering, by unlawfully
3 transporting (or attempting to transport) funds or monetary instruments into the United States
4 with an intent to promote the offenses of “illegal export of services to Iran as charged in Count
5 Two” and “bank fraud as charged in Counts Three and Four,” in violation of 18 U.S.C.
6 § 1956(a)(2)(A).

7 Specifically, Count Five charges:

8 From at least in or about 2006, up to and including at least in or about
9 May 2014, in the Southern District of New York, Turkey, Switzerland, Iran,
10 and elsewhere, ALI SADR HASHEMI NEJAD, the defendant, and others
11 known and unknown, together with others known and unknown, in an offense
12 involving and affecting interstate and foreign commerce, did knowingly
13 transport, transmit, and transfer, and attempted to transport, transmit, and
14 transfer, monetary instruments and funds to places in the United States from
15 and through places outside the United States, in amounts exceeding \$10,000,
16 and aided and abetted the same, with the intent to promote the carrying on of
17 specified unlawful activity, to wit, (i) the illegal export of services to Iran as
18 charged in Count Two of this Indictment, and (ii) bank fraud as charged in
19 Counts Three and Four of this Indictment.

20 Section 1956(a)(2) of Title 18, United States Code, provides in relevant part:

21 Whoever transports, transmits, or transfers, or attempts to transport,
22 transmit, or transfer a monetary instrument or funds ... to a place in the United
23 States from or through a place outside the United States—

24 (A) with the intent to promote the carrying on of specified unlawful
25 activity ...

26 shall be [guilty of a crime].

1 Instruction No. 33: Count Five: Elements of the Offense

2 In order to prove the crime of money laundering as alleged in Count Five, the
3 Government must prove the following two elements beyond a reasonable doubt:

4 First, that the defendant transported, transmitted, or transferred, or attempted to transport,
5 transmit, or transfer, a monetary instrument or funds to a place in the United States from or
6 through a place outside the United States; and

7 Second, that the defendant did so with the intent to promote the carrying on of specified
8 unlawful activity.

1 Instruction No. 34: Count Five: Transportation of a Monetary Instrument or Funds to the United
2 States (Element One)

3 The first element which the Government must prove beyond a reasonable doubt is that
4 the defendant transported, transmitted, or transferred, or attempted to transport, transmit, or
5 transfer, a monetary instrument or funds to a place in the United States from or through a place
6 outside the United States.

7 The term “monetary instrument” includes, among other things, currency or a coin of the
8 United States, for example U.S. dollars, or of any other country, money orders, and other
9 negotiable instruments.

10 The term “funds” refers to money or negotiable paper which can be converted into
11 currency.

12 “Transport,” “transmit,” and “transfer” are not words that require definitions. They are
13 words which have an ordinary, everyday meaning. The Government need not prove that the
14 defendant physically carried the funds or monetary instrument in order to prove that he is
15 responsible for transporting, transmitting, or transferring it. All that is required is proof that the
16 defendant caused the funds or monetary instrument to be transported, transmitted, or transferred.
17 To satisfy this element, the Government must also prove that the funds or monetary instruments
18 were transported to someplace in the United States from or through someplace outside the United
19 States.

1 Instruction No. 35: Count Five: Intent to Promote Specified Unlawful Activity (Element Two)

2 The second element which the Government must prove beyond a reasonable doubt is that
3 Mr. Sadr acted with intent to promote the carrying on of specified unlawful activity.

4 I instruct you, as a matter of law, that the term “specified unlawful activity” includes
5 (i) conspiracy to violate the IEEPA as charged in Count Two; and (ii) bank fraud and bank fraud
6 conspiracy, as charged in Counts Three and Four. I have already explained to you the elements
7 of those specified unlawful activities in connection with Counts Two, Three, and Four.

8 To act intentionally means to act deliberately and purposefully, not by mistake or
9 accident, with the purpose of promoting, facilitating or assisting the carrying on of these
10 specified unlawful activities. If you find that the defendant acted with the intention or deliberate
11 purpose of promoting, facilitating, or assisting in the carrying on of either or both of these
12 specified unlawful activities, then the third element is satisfied. You need not find that these
13 activities actually occurred, but merely that the defendant acted to promote, facilitate, or assist
14 them to occur.

15 As with the other Counts, a defendant’s good faith is a complete defense to this element.
16 If a defendant believed in good faith that he was acting properly, even if he was mistaken in that
17 belief, there would be no crime because a defendant who acted in good faith cannot be found to
18 have acted with the unlawful intent required for this Count. The burden of establishing criminal
19 intent and lack of good faith rests upon the Government. Mr. Sadr is under no burden to prove
20 his good faith; rather, the Government must prove Mr. Sadr’s unlawful intent beyond a
21 reasonable doubt.

1 Instruction No. 36: Count Five: Aiding and Abetting

2 As with Count Three, Mr. Sadr can be convicted of Count Five *either* if he committed the
3 crime himself, *or* if another person committed the crime and Mr. Sadr aided and abetted that
4 person to commit that crime. I have already instructed you as to the requirements of aiding and
5 abetting in connection with Count Three. You should follow those instructions here as well.

1 Instruction No. 37: Count Six: Conspiracy to Commit Money Laundering: General Instructions

2 Count Six charges Mr. Sadr with conspiracy to commit the money laundering offense
3 charged in Count Five.

4 Specifically, Count Six alleges that:

5 From at least in or about 2006, up to and including at least in or about
6 May 2014, in the Southern District of New York, Turkey, Switzerland, Iran,
7 and elsewhere, ALI SADR HASHEMI NEJAD, the defendant, and others
8 known and unknown, together with others known and unknown, willfully and
9 knowingly did combine, conspire, confederate, and agree together and with
10 each other to violate Title 18, United States Code, Section 1956(a)(2)(A).

11 It was a part and an object of the conspiracy that ALI SADR HASHEMI
12 NEJAD, the defendant, and others known and unknown, in an offense
13 involving and affecting interstate and foreign commerce, would and did
14 transport, transmit, and transfer, and attempt to transport, transmit, and
15 transfer, monetary instruments and funds to places in the United States from
16 and through places outside the United States, in amounts exceeding \$10,000,
17 with the intent to promote the carrying on of specified unlawful activity, to wit,
18 the illegal export of services to Iran as charged in Count Two of this
19 Indictment and bank fraud as charged in Counts Three and Four of this
20 Indictment, in violation of Section 1956(a)(2)(A) of Title 18, United States
21 Code.

22 Title 18, Section 1956(h) of the United States Code provides:

23 Any person who conspires to commit any offense defined in this section ...
24 shall be [guilty of a crime].

1 Instruction No. 38: Count Six: Elements

2 Like Counts One, Two, and Four, Count Six charges a conspiracy. Again, the elements
3 are similar to Count One, except that an overt act is not required. As I said with respect to
4 Counts One, Two, and Four, a conspiracy and the substantive crime are distinct and independent
5 offenses, and you may find the defendant guilty of the crime of conspiracy—even if you find that
6 he never actually committed the substantive crime that was the object of the conspiracy. By the
7 same token, you can find the defendant guilty of committing the substantive crime, even if you
8 find him not guilty of conspiracy. To sustain its burden of proof with respect to the conspiracy
9 charge in Count Six, the Government must prove beyond a reasonable doubt each of the
10 following elements:

11 First, the Government must prove that the conspiracy charged in Count Six existed. That
12 is, that there was an agreement or understanding among at least two people to commit unlawful
13 transportation of monetary instruments or funds to promote the specified unlawful activities of
14 illegal export of services to Iran in violation of IEEPA (as charged in Count Two) and bank fraud
15 (as charged in Counts Three and Four), and that that agreement continued to exist after March
16 18, 2013.

17 Second, the Government must prove that Mr. Sadr knowingly and willfully became a
18 member of that conspiracy, with knowledge of its unlawful objective.

19 Each of these elements must be satisfied beyond a reasonable doubt.

1 Instruction No. 39: Count Six: Existence and Object of Conspiracy (Element One)

2 The first element that the Government must prove beyond a reasonable doubt is that two
3 or more persons entered the unlawful agreement charged in Count Six of the Indictment—that is,
4 an agreement to commit money laundering by unlawful transportation of monetary instruments
5 and funds, with intent to promote the illegal exportation of services to Iran as charged in Count
6 Two, and bank fraud as charged in Counts Three and Four.

7 In Instruction No. 14 on Count One, I instructed you on the principles of law you are to
8 apply to determine whether the Government has proven beyond a reasonable doubt that the
9 conspiracy charged in the relevant count of the Indictment existed—including the requirement
10 that it must have continued after the statute of limitations date.

11 You should apply those principles here to determine whether the unlawful agreement
12 charged in Count Six, described above, existed after March 18, 2013.

Instruction No. 40: Count Six: Knowing and Willful Participation in the Conspiracy (Element Two)

In order to find Mr. Sadr guilty of the conspiracy charged in Count Six, the second element you must find that the Government has proved beyond a reasonable doubt is that Mr. Sadr knowingly and willfully participated in the conspiracy to commit money laundering charged in Count Six, knowing of and intending to further its unlawful purpose.

I have already explained the elements of the charged money laundering offense, including the required knowledge, intent, and good faith when discussing Count Five. You should rely on those instructions in determining whether Mr. Sadr participated in the money laundering conspiracy charged in Count Six with the required knowledge and intent.

1 **OTHER INSTRUCTIONS**

2 Instruction No. 41: Venue

3 In addition to all of the elements I have described, for each Count, you must consider the
4 issue of venue, namely, whether any act in furtherance of each of the crimes occurred within the
5 Southern District of New York. The Southern District of New York includes Manhattan, the
6 Bronx, and Westchester, Rockland, Putnam, Dutchess, Orange, and Sullivan counties.

7 It is sufficient to satisfy the venue requirement if any act in furtherance of the crimes
8 charged occurred within the Southern District of New York as I have described it to you. In this
9 regard, the Government need not prove that the entire crime charged was committed in the
10 Southern District of New York or that the defendant or any alleged co-conspirator was even
11 physically present here in the Southern District of New York.

12 I should note that on this issue of venue—and this alone—the Government need not
13 prove venue beyond a reasonable doubt, but only by a preponderance of the evidence. Thus, the
14 Government has satisfied its venue obligations if you conclude that it is more likely than not that
15 an act in furtherance of the crime charged was committed in this District.

16 If you find that the Government has failed to prove the venue requirement for any Count,
17 then you must acquit the defendant on that Count.

1 Instruction No. 42: Theory of the Defense

2 Ali Sadr contends he is innocent of all charges, did not have any criminal intent, and
3 acted in good faith at all times. The Government contends that Mr. Sadr did not hold these good
4 faith beliefs, and that he had the unlawful knowledge and intent charged in the Indictment for
5 each offense.

6 **With respect to the Conspiracy to Defraud the United States and to Violate the U.S.**
7 **Sanctions (Counts One and Two):**

8 Mr. Sadr contends that he had no intent at any time to violate, evade, or avoid the U.S.-
9 Iran trade sanctions, or frustrate U.S. enforcement of those sanctions. He argues that he believed
10 at all times in good faith that his conduct complied with the sanctions, and did not violate them,
11 for several reasons. *First*, he argues that he believed that because he made sure that no money
12 was ever transferred to Iran, his conduct did not violate the sanctions. *Second*, he contends that
13 Clarity and Stratus Turkey were independent companies legally doing legitimate business
14 outside Iran, and that he did not create them for the purpose of evading or avoiding U.S.
15 sanctions. *Third*, he contends his belief that his conduct complied with the sanctions was
16 reasonable because he never received notice from any source that his conduct violated the
17 sanctions. *Finally*, he contends he did not have any purpose to frustrate the U.S. Government's
18 enforcement of the sanctions, and believed on the contrary that his conduct complied with those
19 sanctions.

20 **With respect to the Bank Fraud Charges (Counts Three and Four):**

1 Mr. Sadr contends that he believed he provided accurate information to the banks
2 regarding the wire transfers, by accurately identifying the senders and recipients of each transfer.
3 He argues that he believed he provided all of the information required by the banks or by the
4 law, and that he was not required to provide any more information. He contends he did not
5 knowingly or intentionally give false information to banks, nor did he believe that he was
6 concealing anything that he was required to disclose to the banks.

7 Mr. Sadr further contends that he did not knowingly expose the banks to any risk of
8 OFAC enforcement of the sanctions laws, *first*, because he did not believe that these transactions
9 violated the sanctions, and *second*, because he did not know OFAC's enforcement policies or
10 practices regarding the banks, or that these transactions created a risk of such enforcement. He
11 also contends that these transactions in fact created no meaningful risk or likelihood of harm to
12 the banks' property interests.

13 **With respect to the Money Laundering Charges (Counts Five and Six):**

14 Mr. Sadr contends he did not violate the money laundering laws, or intend to do so,
15 because he did not know or intend that any of his transfers of funds to the United States from
16 outside the United States were for the purpose of violating, evading, or avoiding the U.S.-Iran
17 trade sanctions, or for the purpose of committing bank fraud. Mr. Sadr contends that he believed
18 in good faith at all times that any transfers of funds into the United States from outside the
19 United States were done for legitimate business or family purposes.

Instruction No. 43: Variance in Dates

Each Count of the Indictment alleges an approximate date range. It is sufficient if you find that the charged conduct that you are considering occurred around the dates set forth in the Indictment. The law only requires a substantial similarity between the dates alleged in the Indictment and the dates established by the testimony and other evidence.

1 **GENERAL INSTRUCTIONS**

2 Instruction No. 44: Direct and Circumstantial Evidence

3 I turn now to some general instructions. There are two types of evidence that you may
4 properly use in reaching your verdict. One type of evidence is direct evidence. One kind of
5 direct evidence is a witness's testimony about something the witness knows by virtue of her or
6 his own senses—something the witness has seen, felt, touched or heard. Direct evidence may
7 also be in the form of exhibit.

8 The other type of evidence is circumstantial evidence. Circumstantial evidence is
9 evidence that tends to prove one fact by proof of other facts. There is a simple example of
10 circumstantial evidence that is often used in this courthouse.

11 Assume that when you came into the courthouse this morning the sun was shining and it
12 was a nice day. Assume that there are blinds on the courtroom windows that are drawn and that
13 you cannot look outside. As you are sitting here, someone walks in with an umbrella that is
14 dripping wet. Someone else then walks in with a raincoat that is also dripping wet.

15 Now, you cannot look outside the courtroom and you cannot see whether or not it is
16 raining. So you have no direct evidence of that fact. But on the combination of the facts that I
17 have asked you to assume, it would be reasonable and logical for you to conclude that between
18 the time you arrived at the courthouse and the time these people walked in, it had started to rain.

19 That is all there is to circumstantial evidence. You infer on the basis of reason and
20 experience and common sense from an established fact the existence or nonexistence of some
21 other fact.

1 Many facts, such as a person's state of mind, can only rarely be proved by direct
2 evidence. Circumstantial evidence is of no less value than direct evidence. It is a general rule
3 that the law makes no distinction between direct and circumstantial evidence, but simply requires
4 that before convicting Mr. Sadr you, the jury, must be satisfied of Mr. Sadr's guilt beyond a
5 reasonable doubt from all the evidence in the case.

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What is an “inference”? What does it mean to “infer” something? An inference is not a suspicion or a guess. It is a reasoned, logical decision to conclude that a disputed fact exists based on another fact that you are satisfied exists.

The process of drawing inferences from facts in evidence is not a matter of guesswork or speculation. An inference is a deduction or conclusion that you, the jury, are permitted but not required to draw from the facts that have been established by either direct or circumstantial evidence. In drawing inferences, you should exercise your common sense.

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1 Where a fact to be proved is also an element of the offense, however, it is not enough that
2 an inference in the Government's favor is permissible. To find a required element of an offense
3 proven, you must be satisfied that the Government has proven it beyond a reasonable doubt.

4 Some inferences, however, are impermissible. You may not infer that Mr. Sadr is guilty
5 of participating in criminal conduct if you find merely that he was present at the time the crime
6 was being committed and had knowledge that it was being committed. Nor may you use
7 evidence that I have instructed you was admitted for a limited purpose for any inference beyond
8 that limited purpose.

9 In addition, you may not infer that Mr. Sadr is guilty of participating in criminal conduct
10 merely from the fact that he associated with other people who were guilty of wrongdoing or
11 merely because he has or had knowledge of the wrongdoing of others.

1 Instruction No. 46: Number of Witnesses and Uncontradicted Testimony

2 The fact that one party called more witnesses and introduced more evidence than the
3 other does not mean that you should necessarily find the facts in favor of the side offering the
4 most witnesses. By the same token, you do not have to accept the testimony of any witness who
5 has not been contradicted or impeached, if you find the witness not to be credible. You also have
6 to decide which witnesses to believe and which facts are true. To do this you must look at all the
7 evidence, drawing upon your own common sense and personal experience. (After examining all
8 the evidence, you may decide that the party calling the most witnesses has not persuaded you
9 because you do not believe its witnesses, or because you do believe the fewer witnesses called by
10 the other side.)

11 In a moment, I will discuss the criteria for evaluating credibility; for the moment,
12 however, you should keep in mind that the burden of proof is always on the Government and the
13 defendant is not required to call any witnesses or offer any evidence, since he is presumed to be
14 innocent.

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If you find that a witness is intentionally telling a falsehood, that is always a matter of importance that you should weigh carefully. If you find that any witness has lied under oath at this trial, you should view the testimony of such a witness cautiously and weigh it with great care. You may reject the entirety of the witness's testimony, part of it or none of it. It is for you to decide how much of a witness's testimony, if any, you wish to credit. A witness may be inaccurate, contradictory, or even untruthful in some respects and yet entirely believable and truthful in other respects. It is for you to determine whether such untruths or inconsistencies are significant or inconsequential, and whether to accept or reject all or to accept some and reject the balance of the testimony of any witness.

1 In evaluating credibility of the witnesses, you should take into account any evidence that
2 the witness who testified may benefit in some way from the outcome of this case. Therefore, if
3 you find that any witness whose testimony you are considering may have an interest in the
4 outcome of this trial, then you should bear that factor in mind when evaluating the credibility of
5 his or her testimony and accept it with great care. This is not to suggest that any witness who has
6 an interest in the outcome of a case would testify falsely. It is for you to decide to what extent, if
7 at all, the witness's interest has affected or colored his or her testimony.

8 You are not required to accept testimony even though the testimony is not contradicted
9 and the witness's testimony is not challenged. You may decide because of the witness's bearing
10 or demeanor, or because of the inherent improbability of the testimony, or for other reasons
11 sufficient to yourselves that the testimony is not worthy of belief. On the other hand, you may
12 find, because of a witness's bearing and demeanor and based upon your consideration of all the
13 other evidence in the case, that the witness is truthful.

14 Thus, there is no magic formula by which you can evaluate testimony. You bring to this
15 courtroom all your experience and common sense. You determine for yourselves in many
16 circumstances the reliability of statements that are made by others to you and upon which you
17 are asked to rely and act. You may use the same tests here that you use in your everyday
18 lives. You may consider the interest of any witness in the outcome of this case and any bias or
19 prejudice of any such witness, and this is true regardless of who called or questioned the witness.

20 You should judge the defendant's testimony in the same way that you judge the
21 testimony of any other witness.

1 Instruction No. 48: Credibility of Witnesses: Impeachment by Prior Inconsistent Statement

2 You have heard evidence that a witness made a statement on an earlier occasion which
3 counsel argues is inconsistent with the witness's trial testimony. Evidence of a prior inconsistent
4 statement is not to be considered by you as affirmative evidence bearing on Mr. Sadr's guilt.
5 Evidence of the prior inconsistent statement was placed before you for the more limited purpose
6 of helping you decide whether to believe the trial testimony of the witness who contradicted
7 himself. If you find that the witness made an earlier statement that conflicts with his trial
8 testimony, you may consider that fact in deciding how much of his trial testimony, if any, to
9 believe.

10 In making this determination, you may consider whether the witness purposely made a
11 false statement or whether it was an innocent mistake; whether the inconsistency concerns an
12 important fact or whether it had to do with a small detail; whether the witness had an explanation
13 for the inconsistency; and whether that explanation appealed to your common sense.

14 It is exclusively your duty, based on all of the evidence and your own good judgment, to
15 determine whether the prior statement was inconsistent, and if so how much, if any, weight to be
16 given to the inconsistent statement in determining whether to believe all or part of the witness's
17 testimony.

1 Instruction No. 49: Charts and Summaries – Not Admitted As Evidence

2 There have been a number of summary charts and exhibits that were shown to you but
3 not admitted into evidence. These charts and summary exhibits serve merely as a summary and
4 analysis of testimony and documents in the case. The charts and exhibits are here to act as visual
5 aids for you. They are not, however, evidence in themselves. They are graphic demonstrations
6 of underlying evidence. It is the underlying evidence and the weight which you attribute to it
7 that gives value and significance to these charts; the charts are no better than the underlying
8 evidence.

9 If you decide that the charts and summary exhibits correctly present the underlying
10 evidence contained in the testimony and exhibits on which they are based, you are entitled to
11 consider them in analyzing and understanding the evidence. To the extent that the charts differ
12 from what you determine the underlying evidence to be, you may reject them.

1 Instruction No. 50: Charts and Summaries – Admitted As Evidence

2 Now, some of the exhibits that were admitted into evidence were in the form of charts
3 and summaries. For these charts and summaries that were admitted into evidence, you should
4 consider them as you would any other evidence, which includes assessing the accuracy of the
5 information contained in those charts or summaries.

1 Instruction No. 51: Law Enforcement Witnesses

2 You have heard testimony of law enforcement officers. The fact that a witness may be
3 employed by the Government as a law enforcement official does not mean that his or her
4 testimony is necessarily deserving of more or less consideration or greater or lesser weight than
5 of an ordinary witness.

6 At the same time, it is legitimate for defense counsel to try to attack the credibility of a
7 law enforcement witness on the grounds that his or her testimony may be colored by a personal
8 or professional interest in the outcome of the case.

9 It is your decision, after reviewing all the evidence, whether to accept the testimony of
10 the law enforcement witnesses and to give that testimony whatever weight, if any, you find it
11 deserves.

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1 Instruction No. 53: Preparation of Witnesses

2 You heard evidence during the trial that witnesses had discussed the facts of the case and
3 their testimony with the lawyers before the witnesses appeared in court. Although you may
4 consider that fact when you are evaluating a witness's credibility, there is nothing either unusual
5 or improper about a witness meeting with lawyers before testifying. The weight you give to the
6 fact or the nature of the witness's preparation for his or her testimony is a matter completely
7 within your discretion.

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1 Instruction No. 55: Jury To Consider Only This Defendant

2 You are about to be asked to decide whether or not the government has proven beyond a
3 reasonable doubt the guilt of this defendant. You are not being asked whether any other person
4 has been proven guilty. Your verdict should be based solely upon the evidence or lack of
5 evidence as to this defendant, in accordance with my instructions and without regard to whether
6 the guilt of other people has or has not been proven.

1 Instruction No. 56: Evidence Obtained from Searches

2 You heard testimony in this case about the evidence seized in connection with searches
3 conducted by law enforcement officers. Evidence obtained from the searches was properly
4 admitted in this case and may be properly considered by you. Such searches were appropriate
5 law enforcement actions.

6 Whether you approve or disapprove of how the evidence was obtained should not enter
7 into your deliberations, because I instruct you that the Government's use of the evidence is
8 entirely lawful. You must therefore, regardless of your personal opinions, give this evidence full
9 consideration along with all the other evidence in the case in determining whether the
10 Government has proven the defendant's guilt beyond a reasonable doubt.

Instruction No. 57: Translations

Translations of certain documents that were in foreign languages have been admitted into evidence, and these translations have been stipulated to by the parties. The evidence you are to consider and on which you must base your decision is only the English-language translation. Although some of you may know the non-English languages used, you must disregard any meaning of the non-English words that differs from the official translation.

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With respect to the testimony of witnesses who testified in a language other than English, I instruct you that you must rely on and accept the interpreter's English language interpretation of that testimony, even if you understand the foreign language in which the witness testified.

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1 Instruction No. 59: Redaction of Evidentiary Items

2 We have, among the exhibits received in evidence, some documents that are redacted.
3 “Redacted” means that part of the document was taken out. Material may be redacted for any
4 number of reasons, including that it is not relevant to the issues you must decide in this case,
5 among other reasons. You are to concern yourself only with the part of the item that has been
6 admitted into evidence. I instruct you that the omitted portion of the material was appropriately
7 redacted, and you should not consider any possible reason for the redactions.

Instruction No. 60: Punishment

The question of possible punishment of the defendant is of no concern to you, the members of the jury, and should not, in any sense, enter into or influence your deliberations. The duty of imposing sentence rests exclusively upon the Court.

Your function is to weigh the evidence in the case and to determine whether or not the Government has proved that the defendant is guilty beyond a reasonable doubt, solely upon the basis of such evidence.

1 Instruction No. 61: Right to Hear Testimony; Election of Foreperson; Communications with the
2 Court; Juror Note-Taking

3 You are about to go into the jury room and begin your deliberations. The documentary
4 evidence will be sent back with you. If you want any of the testimony, that can be arranged.
5 But please remember that it is not always easy to locate what you might want, so be as specific
6 as you possibly can in requesting portions of the testimony that you might want.

7 Your first task as a jury will be to choose your foreperson. The foreperson has no greater
8 voice or authority than any other juror, but is the person who will communicate with the Court
9 through written note when questions arise and to indicate when you have reached your verdict.

10 Your requests for testimony—in fact, any communications with the Court— should be
11 made to me in writing, signed by your foreperson, and given to one of the Marshals. I will
12 respond to any questions or requests you have as promptly as possible, either in writing or by
13 having you return to the courtroom so I can speak with you in person. In any communication,
14 please do not tell me or anyone else how the jury stands on the issue of the jury’s verdict until
15 after a unanimous verdict is reached.

16 For those of you who took notes during the course of the trial, you should not show your
17 notes to or discuss your notes with any other juror during your deliberations. Any notes you
18 have taken are to assist you and you alone. The fact that a particular juror has taken notes
19 entitles that juror’s views to no greater weight than those of any other juror.

- 1 Finally, your notes are not to substitute for your recollection of the evidence in this case.
- 2 As noted, if you have any doubt as to any testimony, you may request that the official trial
- 3 transcript that has been made of these proceedings be read or otherwise provided to you.

1 **CONCLUDING REMARKS**

2 The most important part of this case, members of the jury, is the part that you as jurors are
3 now about to play as you deliberate on the issues of fact. It is for you, and you alone, to weigh
4 the evidence in this case and determine whether the Government has proved beyond a reasonable
5 doubt each of the essential elements of the crime with which Mr. Sadr is charged. If the
6 Government has succeeded, your verdict should be guilty as to that charge; if it has failed, your
7 verdict should be not guilty as to that charge.

8 You must base your verdict solely on the evidence or lack of evidence and these
9 instructions as to the law, and you are obliged under your oath as jurors to follow the law as I
10 have instructed you, whether you agree or disagree with the particular law in question.

11 Under your oath as jurors, you are not to be swayed by sympathy. You should be guided
12 solely by the evidence presented during the trial and the law as I gave it to you, without regard to
13 the consequences of your decision. You have been chosen to try the issues of fact and reach a
14 verdict on the basis of the evidence or lack of evidence. If you let sympathy interfere with your
15 clear thinking, there is a risk that you will not arrive at a just verdict.

16 As you deliberate, please listen to the opinions of your fellow jurors, and ask for an
17 opportunity to express your own views. Every juror should be heard. No one juror should hold
18 center stage in the jury room and no one juror should control or monopolize the deliberations. If,
19 after listening to your fellow jurors and if, after stating your own view, you become convinced
20 that your view is wrong, do not hesitate because of stubbornness or pride to change your view.
21 On the other hand, do not surrender your honest convictions and beliefs solely because of the

1 opinions of your fellow jurors or because you are outnumbered. Your final vote must reflect
2 your conscientious belief as to how the issues should be decided.

3 Thus, the verdict must represent the considered judgment of each juror. In order to return
4 a verdict, it is necessary that each juror agree to it. Your verdict must be unanimous.

5 If at any time you are divided, do not report how the vote stands, and if you have reached
6 a verdict, do not report what it is until you are asked in open court.

7 Finally, I say this not because I think it is necessary, but because it is the custom in this
8 courthouse to say this: You should treat each other with courtesy and respect during your
9 deliberations.

10 In conclusion, ladies and gentlemen, I am sure that if you listen to the views of your
11 fellow jurors, and if you apply your own common sense, you will deliberate fairly.

12 Members of the jury, I ask your patience for a few minutes longer. It is necessary for me
13 to spend a few moments with counsel and the reporter at the side bar. I will ask you to remain
14 patiently in the jury box, without speaking to each other, and we will return in just a moment to
15 submit the case to you. Thank you.